

Public Service Staff  
Relations Act



Before the Public Service  
Staff Relations Board

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BETWEEN

**DAVE GIROUX**

Complainant

and

**PHYLLIS MARTIN**

Respondent

**RE:** Complaint under Section 23 of the  
Public Service Staff Relations Act

**Before:** [Rosemary Vondette Simpson, Board Member](#)

**For the Complainant:** Bruce Simpson, Counsel

**For the Respondent:** Ross Munro

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Heard at Ottawa, Ontario,  
May 21, 1998.

## DECISION

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The complainant, Dave Giroux, submitted the following complaint under section 23 of the *Public Service Staff Relations Act*:

*Phylis (sic) Martin, of the Public Service Commission Investigations Branch was not unbiased and did not follow the rules of due process. She found Health Canada "should have held a competition, with attendant appeal rights for the purpose of selecting employees for subsequent term appointments" yet did nothing to correct this which was the idea.*

At the hearing which convened on May 21, 1988, objection was taken to the Board's jurisdiction by the employer on the grounds there were no allegations against any employer representatives. The only person named in the complaint was an Appeals Officer, Phyllis Martin, who is not an employer representative and who had acted under section 7 of the *Public Service Employment Act*. There were no allegations of interference with grievance rights.

Counsel for Mr. Giroux gave some background information on behalf of Mr. Giroux, including the fact that he had represented him and was continuing to represent him in *Public Service Employment Act* matters before the Public Service Commission. Counsel for Mr. Giroux was given an opportunity to examine the legislation and consult with Mr. Giroux privately. It was agreed that the Board had no jurisdiction in this matter.

### Reasons for Decision

It is trite law that my jurisdiction is derived from the *Public Service Staff Relations Act (PSSRA)*. I agree with the position of the parties that the Board has no jurisdiction under the *Public Service Staff Relations Act* to deal with the issues raised in the complaint. Because the Board cannot take jurisdiction in this matter, I will not comment on matters raised by Mr. Giroux' counsel relating to his appeals under the *Public Service Employment Act*.

The complaint is dismissed for lack of jurisdiction.

**Rosemary Vondette Simpson,  
Board Member**

OTTAWA, June 19, 1998.